REMARKS

Claims 1-55 are currently pending in the application. By this amendment, claims 1, 47 and 53 will have been amended, and claims 56-57 will have been added for the Examiner's consideration.

Accordingly, reconsideration and withdrawal of the pending rejections are requested in view of the instant amendment and the accompanying remarks.

Amendment Fully Supported by the Original Disclosure

The above amendments do not add new matter to the application and are fully supported by the specification. For example, support for adding claims 56 and 57 is provided at paragraph [0012] of the specification. Further, claims 47 and 53 were amended for grammatical errors. Applicant respectfully requests reconsideration and timely withdrawal of the pending rejections for the reasons discussed below.

Summary of the Election Requirements

Group Election:

Upon entry of the present response, Applicant will have elected, with traverse, Group II that includes claims 10-43. In the Official Action, the Examiner required an election of one of three inventions. The Examiner indicated that the three inventions were:

Group I - Claims 1-9, which are drawn to a fluid analyzer for determining pH, which is classified in class 422, subclass 224; and

Group II - Claims 10-43, which are drawn to a method of making a reagent mixture for determining pH of a sample, which is classified in class 436, subclass 166.

Group III - Claims 44-55, which are drawn to a method for determining pH of formation fluid, which is classified in class 436, subclass 28.

Applicant respectfully traverses the above Restriction Requirement and submits that it is inappropriate, in view of Applicant's currently amended claim 1. Applicant submits that claims 1-43 currently pending (Groups I and II) in the application are merely directed toward a method of making a reagent mixture for determining pH of a sample of formation fluid.

The Examiner has indicated that Group II and Group I are related as process and apparatus for its practice, respectively.

MPEP § 806.05(e) sets forth that a process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice by another and materially different process.

The Examiner indicates that the claimed process can be used with a materially different apparatus. In particular, an apparatus that requires "means for mixing formation fluid with said reagent mixture downhole."

Applicant respectfully submits that, in view of Applicant's currently amended claim 1, the Examiner can not provided evidence to support his assertion that the apparatus of claim 1 can be used in the manner suggested or that the process of claim 10 can be practiced by the suggested apparatus.

Moreover, the Restriction Requirement set forth by the Examiner, in view of Applicant's currently amended claim 1, omits one of the two criteria for a proper

Restriction Requirement now established by the U.S. Patent and Trademark Office policy. As set forth in MPEP § 803 "an appropriate explanation" must be set forth by the Examiner as to the existence of a "serious burden" if the Restriction Requirement were not required. Respectfully, Applicant submits the Examiner's restriction requirement of Group I and Group II is incorrect and that Group I and Group II for the reasons set forth above are not independent and distinct inventions. Thus, the Examiner's reasons presented in the current Office Action relating to "an appropriate explanation" as to the existence of a "serious burden" for the Restriction Requirement has not been met, in view of Applicant's currently amended claim 1.

For all of these reasons set fourth above, and consistent with the Office Policy as set forth in MPEP § 803, Applicant respectfully requests that the Examiner reconsider the position taken in the above-mentioned Official Action and withdraw the Restriction Requirement in the present application for Groups I and II. Accordingly, the Examiner's Restriction Requirement is believed to be improper and has been traversed for the reasons set forth above.

Nevertheless, in order to be fully responsive, Applicant has elected with traverse the invention of Group II that includes claims 10-44 in the event that the Examiner chooses not to reconsider and withdraw the Restriction Requirement.

Species Election

In the instant Election Requirement, the Examiner has further required an election of one of the following species:

Species I – claims 1-5 and 10-26; and

Species II -- Claims 1-5 and 27-43.

While the Examiner asserted claims 1-5 and 10-26 were readable on species I and claims 1-5 and 27-43 were readable on species II, Applicant submits, in view of the instant amendment to independent claim 1, claims 10-26 and 27-43 are now readable on species II.

Applicant notes the instant amendment to claim 1 was made in an effort to clarify the claim, and the instant amendment does not narrow the scope of the claims, such that no estoppel should be deemed to attach.

Moreover, Applicant traverses the instant Election Requirement because the Examiner has omitted one of the two criteria for a proper restriction requirement now established by the U.S. Patent and Trademark Office policy. That is, as set forth in M.P.E.P. ' 803, "an appropriate explanation" must be advanced by the Examiner as to the existence of a "serious burden" if the restriction requirement were not required.

While the Examiner has alleged a possible distinction between the two identified species of invention, the Examiner has not shown that a concurrent examination of each species, would present a "serious burden." Moreover, there is no appropriate statement that the search areas required to examine the species of group I would not overlap into the search areas for examining the invention of species II, and vice versa, in view of Applicant's currently amended claim 1.

Applicant respectfully submits that the search for the combination of features recited in the claims of the individual species, if not totally co-extensive, would appear to have a very substantial degree of overlap. Because the search for each species of

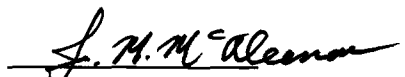
invention is substantially the same, Applicant submits that no undue or serious burden would be presented in concurrently examining species I and II.

Thus, for the above-noted reasons, and consistent with the office policy set forth above in M.P.E.P. § 803, Applicant respectfully requests that the Examiner reconsider and withdraw the restriction and species requirement in this application.

For all of the above reasons, the Examiner's restriction is believed to be improper. Nevertheless, Applicant have elected, with traverse, the invention defined by species II, i.e., claims 27-43, in the event that the Examiner chooses not to reconsider and withdraw the restriction or species requirement.

Should the Examiner have any questions or comments, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,
Bhavani Raghuraman



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